

PATENT – HMI P1191US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): KENNEDY, Sheila; et al.
For: SPACE DIVISION SYSTEM WITH TECHNOLOGY
Serial No.: 10/526,505
Filed: March 4, 2005

AFFIDAVIT OF THOMAS L. LOCKHART IN SUPPORT OF PETITION UNDER 35 U.S.C.
§116 AND 37 C.F.R. §1.47(a)

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

I, Thomas L. Lockhart, do hereby state the following under penalty of perjury:

1. The statements contained in this Affidavit are true to the best of my knowledge, information, and belief, and if called upon as a witness I can testify as to the truth of the statements set forth in this Affidavit.

2. I am a resident of Rockford, Michigan and reside at 7130 Eldred NE, Rockford, Michigan 49341. Since 1979, I have been an Attorney with the law firm of Varnum, Riddering, Schmidt & Howlett LLP ("Varnum"). I have been a partner with Varnum since 1985. I am a registered Patent Attorney with the United States Patent and Trademark Office, Registration No. 29,324. During my time at Varnum, I have been working in the Intellectual Property Department. My responsibilities include various activities, including preparation, filing and prosecution of patent applications. This work has included activities associated with obtaining signatures of inventors for purposes of execution of Declarations and other formal documents typically filed in the United States Patent Office and various foreign patent offices.

3. A provisional patent application was filed on September 4, 2002. The provisional application was entitled "PARTITION SYSTEM WITH TECHNOLOGY" and identified the following individuals as inventors: Sheila Kennedy, Bill Chen-Hsun Yen, Joseph Chi-Chen Ho, Senan Choe, Robert W. Insalaco, W. Daniel Hillis, Russel Howe and Ken Munsch.

4. The provisional patent application (and subsequent corresponding patent applications) is assigned to Herman Miller, Inc. ("Herman Miller").

5. An International PCT patent application, corresponding to the provisional patent application, was filed on September 4, 2003, identifying the United States as one of its designated states. The PCT application is entitled "SPACE DIVISION SYSTEM WITH TECHNOLOGY." The PCT Application is identified as Application No. PCT/US03/27747. Ms. Sheila Kennedy is a

co-owner of KVA Associates, an architectural and design firm in New York City. Upon information and belief, Messrs. Ho and Yen had worked for KVA Associates and Ms. Kennedy.

6. On March 4, 2005, a National Stage U.S. patent application was filed, entitled SPACE DIVISION SYSTEM WITH TECHNOLOGY and claiming priority of the originally filed provisional patent application and based on the International PCT application. At that time, activities were undertaken by various personnel in the Intellectual Property Department at Varnum to obtain signed Declarations from each of the inventors for the SPACE DIVISION SYSTEM. I was informed that Messrs. Ho and Yen were no longer at their prior known addresses. This information was obtained from Ms. Kennedy. Further, Ms. Kennedy stated that neither she nor any of her employees or other associates were aware of any current addresses for these two inventors.

7. During the Spring of 2004, I contacted various personnel at Herman Miller, with the personnel working in the legal and certain technical divisions. These personnel were requested to search through their records to determine if anyone was aware of current addresses for either Mr. Ho or Mr. Yen. Continuing requests were made to various Herman Miller personnel. These searches were subsequently proven futile.

8. I requested Ms. Jodi Russo, a paralegal in the Intellectual Property Department of Varnum, to undertake various types of searches directed to obtaining current addresses for these inventors. These activities included online searches, which were undertaken throughout the Spring, Summer and Fall of 2004, and later. Certain of these activities are attested to by Ms. Russo in her Affidavit which accompanies the associated Petition.

9. On or about November 10, 2005, Varnum received a Notice to File Missing Parts, acknowledging that Declarations for the inventors were then required to be filed with the U.S. Patent Office. The Notice to File Missing Parts provided for a two month period in which to file the Declarations, with extensions of time available pursuant to 37 CFR §1.136(a).

10. Along with Ms. Russo, I undertook various searches in attempts to find current addresses for Messrs. Ho and Yen. These activities included "Google" searches undertaken throughout this time period. The latest searches for purposes of obtaining addresses for Messrs. Ho and Yen were performed by me on May 22, 2006. Two pages of these search results are attached hereto as Exhibit 1.

11. Various additional activities have been undertaken, in further attempts to locate Messrs. Ho and Lau. All of these attempts proved futile. Accordingly, after consultation with Herman Miller, it was determined that the Declarations from the six signing inventors would be forwarded to the United States Patent Office, and a Petition filed under 35 U.S.C. §116 and 37 C.F.R. §1.47(a) for acceptance of the Declarations.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the pending patent application or any patent issued thereon.

13. Further, Affiant sayeth naught.

Dated: 6/7/2006

Thom. L. Lockhart
Thomas L. Lockhart

1267245_1.DOC